

Inspector General

United States
Department of Defense



Afghanistan Security Forces Fund Phase III-U.S. Army
Corps of Engineers Real Property Accountability

Report Documentation Page			Form Approved OMB No. 0704-0188		
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 14 APR 2009		2. REPORT TYPE		3. DATES COVERED 00-00-2009 to 00-00-2009	
4. TITLE AND SUBTITLE Afghanistan Security Forces Fund Phase III-U.S. Army Corps of Engineers Real Property Accountability			5a. CONTRACT NUMBER		
			5b. GRANT NUMBER		
			5c. PROGRAM ELEMENT NUMBER		
6. AUTHOR(S)			5d. PROJECT NUMBER		
			5e. TASK NUMBER		
			5f. WORK UNIT NUMBER		
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Department of Defense Inspector General, ODIG-AUD, 400 Army Navy Drive, Arlington, VA, 22202-4704			8. PERFORMING ORGANIZATION REPORT NUMBER		
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)			10. SPONSOR/MONITOR'S ACRONYM(S)		
			11. SPONSOR/MONITOR'S REPORT NUMBER(S)		
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 64	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

Additional Information and Copies

To obtain additional copies of this report, visit the Web site of the Department of Defense Inspector General at <http://www.dodig.mil/audit/reports> or contact the Secondary Reports Distribution Unit at (703) 604-8937 (DSN 664-8937) or fax (703) 604-8932.

Suggestions for Audits

To suggest ideas for or to request future audits, contact the Office of the Deputy Inspector General for Auditing at (703) 604-9142 (DSN 664-9142) or fax (703) 604-8932. Ideas and requests can also be mailed to:

ODIG-AUD (ATTN: Audit Suggestions)
Department of Defense Inspector General
400 Army Navy Drive (Room 801)
Arlington, VA 22202-4704

DEPARTMENT OF DEFENSE

hotline

To report fraud, waste, mismanagement, and abuse of authority.

Send written complaints to: Defense Hotline, The Pentagon, Washington, DC 20301-1900
Phone: 800.424.9098 e-mail: hotline@dodig.mil www.dodig.mil/hotline

Acronyms and Abbreviations

AED	Afghanistan Engineer District
AFCEE	Air Force Center for Engineering and the Environment
ANA	Afghanistan National Army
ASF	Afghanistan Security Forces
CSTC-A	Combined Security Transition Command-Afghanistan
FAR	Federal Acquisition Regulation
IG	Inspector General
IGE	Independent Government Estimate
MeS	Mazar-e-Sharif
MSCC	Mustafa Sahak Construction Company
NMAA	National Military Academy of Afghanistan
NMH	National Military Hospital
QA	Quality Assurance
QC	Quality Control
RMS	Resident Management System
USACE	U.S. Army Corps of Engineers



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

April 14, 2009

MEMORANDUM FOR COMMANDING GENERAL, COMBINED SECURITY TRANSITION
COMMAND-AFGHANISTAN
COMMANDER, U.S. ARMY CORPS OF ENGINEERS,
AFGHANISTAN ENGINEER DISTRICT

SUBJECT: Afghanistan Security Forces Fund Phase III-U.S. Army Corps of Engineers Real
Property Accountability (Report No. D-2009-076)

We are providing this report for your information and use. We considered management comments on a draft of the report in preparing the final report.

Comments on the draft of this report conformed to the requirements of DoD Directive 7650.3 and left no unresolved issues. Therefore, we do not require any additional comments.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-8905 (DSN 664-8905).

A handwritten signature in black ink, reading "Paul J. Granetto", is positioned above the printed name.

Paul J. Granetto
Principal Assistant Inspector General
for Auditing



Results in Brief: Afghanistan Security Forces Fund Phase III-U.S. Army Corps of Engineers Real Property Accountability

What We Did

We determined whether the Combined Security Transition Command-Afghanistan (CSTC-A) and the U.S. Army Corps of Engineers, Afghanistan Engineer District (AED) properly accounted for real property construction purchased with money from the Afghanistan Security Forces Fund to support the Afghanistan National Army (ANA). AED, a subordinate command of the U.S. Army Corps of Engineers, provided contracting services to CSTC-A.

What We Found

We reviewed 25 construction contracts, valued at \$420.0 million, awarded by AED in support of the ANA. AED did not properly negotiate and award two contract modifications, valued at \$1.4 million, made to two contracts related to the construction of the Kabul National Military Hospital. AED also improperly exercised a contract option that did not have well-defined requirements on one of the National Military Hospital contracts. As a result, AED spent more than \$770,000 unnecessarily.

In addition, AED did not ensure that required quality control procedures were in place on four contracts valued at \$52.6 million. These material internal control weaknesses led to faulty construction, unsafe working conditions, and the construction contractor's failure to meet the contract requirements.

What We Recommend

We recommend that CSTC-A and AED finalize and sign the ANA program management plan, document construction planning decisions, and, working with the ANA, perform a comprehensive review of the remaining

construction requirements at the Kabul National Military Hospital. We recommend that AED account for all variances between independent Government estimates and final prices and strengthen controls over the adequacy of funds. We recommend that AED review all ANA real property construction contracts to determine whether the construction contractor is maintaining an effective quality control system. Lastly, we recommend that AED strengthen quality controls over construction contracts.

Management Comments and Our Response

CSTC-A and AED agreed with all the recommendations. CSTC-A and AED finalized and signed the ANA program management plan and have agreed to improve planning of real property construction as required by the ANA Program Management Plan. AED will take steps to improve contract management and oversight of contractor quality control. We consider the CSTC-A and AED comments responsive.



Kabul National Military Hospital

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Commanding General, Combined Security Transition Command- Afghanistan	None	A.1., B.1.
Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District	None	A.1., A.2., B.1., B.2., B.3.

Table of Contents

Results in Brief	i
Introduction	1
Objectives	1
Background	1
Review of Internal Controls	3
Management Comments on Internal Controls	4
Finding A. Kabul National Military Hospital Construction	5
Management Comments on the Finding and Our Response	10
Recommendations, Management Comments, and Our Response	11
Finding B. Quality Control	15
Management Actions	21
Management Comments on the Finding and Our Response	21
Recommendations, Management Comments, and Our Response	22
Appendices	
A. Scope and Methodology	25
Prior Coverage	26
B. Other Matter of Interest—ANA Maintenance of Buildings	27
C. Management Comments on the Review of Internal Controls and Our Response	29
D. Contracts Reviewed	31
E. Sites Visited	33
Management Comments	
Combined Security Transition Command-Afghanistan	41
U.S. Army Corps of Engineers, Afghanistan Engineer District	45

Introduction

Objectives

Our objectives were to determine whether organizations in Southwest Asia that the U.S. Central Command assigned the responsibility for managing the Afghanistan Security Forces (ASF) Fund properly accounted for the goods and services purchased using the ASF Fund and whether the goods and services purchased were properly delivered to the ASF. This report does not address whether the goods and services were properly transferred to the Afghanistan National Army (ANA) because we addressed the transfer of real property to the ANA in a prior report. DoD Inspector General (IG) Report No. D-2009-031, "Afghanistan Security Forces Fund Phase III-Air Force Real Property Accountability," December 29, 2008, recommended that Combined Security Transition Command-Afghanistan (CSTC-A) develop and implement standard operating procedures for the transfer of real property to the ANA. See Appendix A for a discussion of the scope and methodology and prior coverage. See Appendix B for a discussion of a matter indirectly related to the objectives.

Background

This report is one in a series of reports of a three-phase audit of the ASF Fund. As of June 30, 2008, \$15.3 billion had been appropriated to the ASF Fund through six Public Laws: 109-13, 109-234, 109-289, 110-28, 110-161, and 110-252.

In the first phase of the ASF Fund audit, we determined that the Under Secretary of Defense (Comptroller)/ Chief Financial Officer and the Office of the Assistant Secretary of the Army for Financial Management and Comptroller distributed \$4.7 billion of budget authority appropriated by Public Laws 109-13, 109-234, and 109-289 for the ASF Fund in compliance with provisions of the three Public Laws and appropriations law.

During the second phase, we validated that DoD obligated \$1.3 billion, of the \$4.7 billion, of ASF funds to assist the ASF in accordance with Public Laws 109-13, 109-234 and 109-289, and with appropriations law.

For phase three, we have issued one report that addressed real property accountability for construction contracts awarded by the Air Force Center for Engineering and the Environment (AFCEE) in support of the ASF. We validated the accountability for ASF-funded real property construction valued at \$253.4 million and awarded by AFCEE at the direction of CSTC-A. We determined that AFCEE and CSTC-A maintained sufficient documentation and records to track real property constructed to support the ANA. However, CSTC-A did not have a formal process in place to transfer real property to the ANA.

This report addresses accountability for real property construction awarded by the U.S. Army Corps of Engineers (USACE) at the direction of CSTC-A in support of the ANA. For this report, we reviewed USACE, Afghanistan Engineer District (AED) real

property construction contracts funded in part by the ASF Fund appropriation in Public Laws 109-13, 109-234, 109-289. Subsequent reports will address accountability for weapons, vehicles, and communication equipment provided to support the ASF.

Afghanistan Security Forces Fund

Public Laws 109-13, 109-234, and 109-289 appropriated ASF Funds for “the security forces of Afghanistan including the provision of equipment, supplies, services, training, facility, and infrastructure repair, renovation, and construction.” This report focuses on the construction portion of the ASF Fund appropriation.

Roles and Responsibilities for ASF Fund Execution

U.S. Central Command

The U.S. Central Command is responsible for working to promote development and cooperation among nations to establish security and stability in its area of responsibility. Afghanistan is one of the countries within the U.S. Central Command’s area of responsibility. The U.S. Central Command, through its subordinate command, CSTC-A, is working with the Government of Afghanistan to facilitate the training and equipping of the ASF, which includes the ANA.

Combined Security Transition Command-Afghanistan

The CSTC-A mission is, in partnership with the Islamic Republic of Afghanistan and the international community, to plan, program, and implement structural, organizational, institutional and management reforms of the ASF in order to develop a stable Afghanistan, strengthen the rule of law, and deter and defeat terrorism within its borders.

Afghanistan Engineer District

AED performs construction contracting services on behalf of CSTC-A. A draft ANA program management plan dated January 2008 delineated the services and the costs of those services that AED will provide to CSTC-A, including contracting for ANA real property construction and quality assurance. Further, the draft ANA program management plan stated:

The Combined Security Transition Command-Afghanistan (CSTC-A) and U.S. Army Corps of Engineers (USACE), Afghanistan Engineer District (AED), have jointly developed this Program Management Plan (PgMP) to ensure successful design and construction of facilities supporting the fielding of the 80,000 Afghan National Army (ANA) Soldiers throughout Afghanistan. This PgMP outlines the procedures and responsibilities Afghan and U.S. organizations will undertake during the acquisition planning, management, design, construction and closeout of the programmed facilities.

Our sample of construction contracts was selected from a universe of contracts worth \$2.4 billion for AED-ANA real property construction. Through FY 2007, AED obligated \$1.5 billion for real property construction contracts, and expects to obligate another \$0.9 billion through FY 2009. We reviewed 25 contracts worth \$420.0 million for ANA

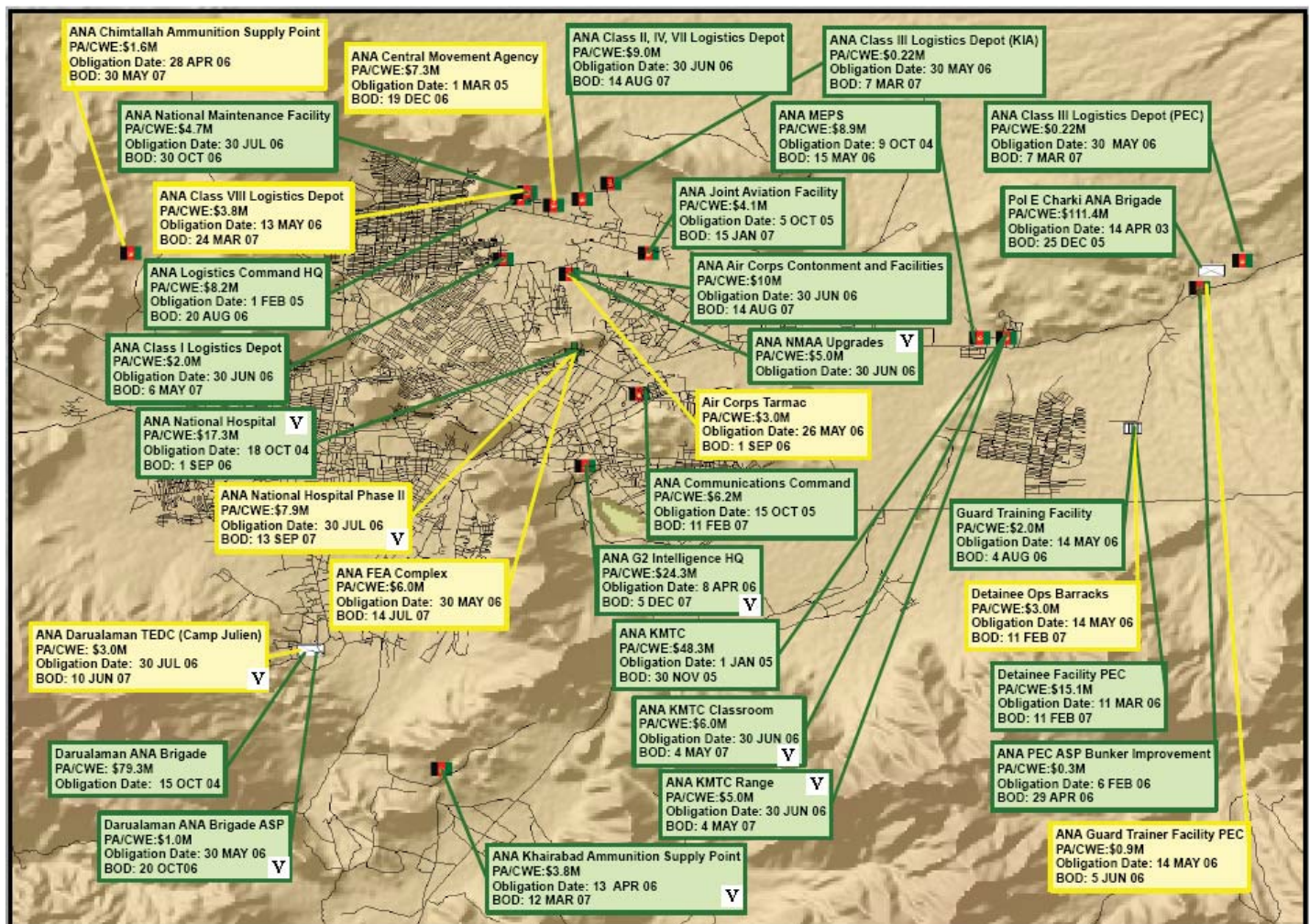
real property construction, funded in part by Public Laws 109-13, 109-234, and 109-289. See Appendix D for a list of the contracts we reviewed.

The figure on the next page shows the locations of AED real property construction sites in Kabul as of February 2008. The sites on the map with a “V” represent sites that we visited during our audit (for a list of sites visited, see Appendix E)

We also visited real property construction sites in Gardez, Kandahar, Mazar-e-Sharif, and Herat.

Review of Internal Controls

We determined that material internal control weaknesses as defined by DoD Instruction 5010.40, “Managers’ Internal Control Program Procedures,” January 4, 2006, existed in the planning of construction requirements and in AED inspection of real property. DoD Instruction 5010.40 states that internal controls are the organization policies and procedures that help program and financial managers achieve results and safeguard the integrity of their programs. CSTC-A and AED did not maintain sufficient controls to ensure that construction requirements were properly planned before contract award. Implementing our recommendations will strengthen controls over construction planning by requiring planning decisions to be documented. AED did not have sufficient control over inspection of construction. Implementing our recommendations will strengthen contractor quality controls to ensure that real property construction meets the Government’s requirements.



Map of Kabul With ANA Real Property Construction Projects

We will provide a copy of the report to the senior CSTC-A and AED officials responsible for internal controls.

Management Comments on Internal Controls

A summary of AED comments on its internal controls and our response to the comments appear in Appendix C.

Finding A. Kabul National Military Hospital Construction

CSTC-A and AED accounted for construction on 23 of the 25 contracts reviewed. However, AED did not properly negotiate and award contract modifications, valued at \$1.4 million, to two contracts related to the construction of the Kabul National Military Hospital (NMH). In addition, CSTC-A and AED also improperly exercised a contract option that did not have well-defined requirements on one of the Kabul NMH contracts. As a result, AED may have spent \$770,000 of ASF funds unnecessarily on the two Kabul NMH contracts.

CSTC-A and AED must strengthen controls over real property construction, including controls over requirements development and the management of contracts. CSTC-A and AED need to:

- document the planning decisions made by all parties involved in developing construction requirements, and
- work with the ANA to conduct a comprehensive review of the remaining construction requirements at the Kabul NMH.

To strengthen controls over contract management, AED needs to:

- document the reasons that the independent Government cost estimate differs from the final price when there are significant differences, and
- strengthen controls over the review of whether proper funds are being placed on the contract.

Criteria

Definition of Accountability

DoD Instruction 5000.64, “Accountability and Management of DoD-Owned Equipment and Other Accountable Property,” November 2, 2006, defines accountability as follows:

The obligation imposed by law, lawful order, or regulation, accepted by an organization or person for keeping accurate records, to ensure control of property, documents or funds, with or without physical possession. The obligation, in this context, refers to the fiduciary duties, responsibilities, and obligations necessary for protecting the public interest; however, it does not necessarily impose personal liability upon an organization or person.

Documentation Requirements

Federal Acquisition Regulation (FAR) Subpart 4.8, “Government Contract Files,” discusses the documentation necessary to establish records of contracting actions. Specifically, the FAR states:

The documentation in the files shall be sufficient to constitute a complete history of the transaction for the purpose of --

- (1) Providing a complete background as a basis for informed decisions at each step in the acquisition process;
- (2) Supporting actions taken;
- (3) Providing information for reviews and investigations; and
- (4) Furnishing essential facts in the event of litigation or congressional inquiries.

Criteria for Contract Negotiation

According to FAR 36.203, "Government Estimate of Construction Costs," an independent Government cost estimate should be prepared for each contract modification anticipated to cost \$100,000 or more. Further, FAR 36.203, states, "The estimate shall be prepared in as much detail as though the Government were competing for award."

According to FAR 36.214, "Special Procedures for Price Negotiation in Construction Contracting," when the proposed costs differ "significantly" from the Government cost estimate, the contracting officer should request that the contractor submit cost information to support the cost elements.

Afghanistan Engineer District Accountability

We reviewed contract documentation for 25 ANA real property construction contracts, valued at \$420.0 million, to determine whether AED maintained sufficient documentation to account for construction in support of the ANA. AED could account for construction on 23 of the 25 contracts. AED did not properly negotiate and award contract modifications to two contracts related to the renovation and repair of the Kabul NMH.

CSTC-A and AED did not properly define, negotiate, or award specific contracting actions for the Kabul NMH, resulting in unnecessary spending of more than \$770,000. The examples below illustrate the difficulties for CSTC-A and AED in operating in a wartime, expeditionary environment.

AED awarded two contracts for a two-phased renovation and repair of the Kabul NMH. The first phase was awarded on October 9, 2004, to Zafer Construction Company and was valued at \$18.9 million. The second phase was awarded on August 1, 2006, to Venco-Imtiaz Construction Company and was valued at \$7.0 million.

Modifications were made to evaluate and replace sewage risers and to add funds for an equitable adjustment because of construction delays. Further, CSTC-A and AED improperly exercised a contract option for an oxygen supply system at the Kabul NMH.

Sewage Risers

AED did not properly negotiate and award a modification to evaluate and replace sewage risers at the Kabul NMH. On April 29, 2006, AED modified the Kabul NMH Phase I contract to include a requirement to evaluate and replace sewage risers at six buildings at

NMH. The contract modification was valued at \$343,500. AED prepared an independent Government estimate (IGE) as part of the negotiation for this modification.

The IGE for this modification to evaluate and replace sewage risers at NMH was prepared by a USACE cost engineer. The cost engineer estimated the cost of the modification at \$133,881. The contractor-proposed cost for this modification was \$349,631. The FAR states that when the proposed costs differ “significantly” from the Government cost estimate, the contracting officer should request that the contractor submit cost information to support the cost elements. We found no request from the contracting officer to the contractor requesting support for the cost elements. Instead, according to the prenegotiation objective memorandum for this modification, AED reviewed the contractor proposal and determined that the contractor’s pricing was “generally consistent” with the scope of work and complied with industry pricing standards. Further, the prenegotiation memorandum stated that the differences between the IGE and the contractor’s proposal would be clarified during negotiation with the contractor.

However, according to the price negotiation memorandum that documented the negotiations between AED and the contractor, AED’s price objective was \$343,387, more than \$200,000 higher than the IGE. In reference to the variance between the price objective and the IGE, the AED negotiator stated, “At the time the IGE was done, reconstruction of the riser shafts was not included and the new work that has taken place since the IGE that has to be removed and redone could not have been included. Both of these issues add significantly to the cost of the change.” However, the price negotiation memorandum contained no schedule that reconciled the differences between the IGE and the AED price objective. Further, the cost engineer prepared a memorandum that disputed the contractor proposed costs. According to the memo,

A cost analysis of the contractor’s proposal compared to the same scope of work for the IGE indicates that the labor and equipment cost for the pipe work is at about \$5 per meter while the contractor’s proposal is at \$53.4 per meter. The IGE is based on Afghanistan labor rates at about \$3 per hour including all fringes. It appears that the contractor’s proposal is excessive.

In addition, the memo stated the IGE took into account the replacement of sewage risers in eight buildings, while the contractor’s proposal was for riser replacement in six buildings. Also, the USACE cost engineer (independent Government estimator) noted that he was not present during negotiations.

Given the discrepancy of more than \$200,000 between the IGE and the contractor proposal, AED may have overpaid for this contract modification. Further, AED did not have sufficient cost support to account for this large discrepancy. Therefore, AED did not properly negotiate and award the modification to evaluate and replace sewage risers at NMH.

Construction Delays

AED did not properly negotiate and award a modification adding funds for an equitable adjustment because of construction delays. The contractor requested compensation for multiple delays, caused by delayed site access, differing site conditions, potential terrorist actions, and late delivery of buildings. The AED technical analysis concluded that \$600,000 was adequate compensation for delays. However, AED compensated the contractor \$1.0 million. There was no explanation or analysis provided to explain the \$400,000 difference.

The contractor had sent a letter to AED on April 11, 2006, requesting compensation of \$1.5 million for delays of 172 days. The contractor proposed compensation of \$8,965 per day, which included overhead costs, a 9-percent general and administrative rate, and a 12-percent profit.

In response, AED conducted a technical analysis that noted that some cost items included in overhead should have been included in the general and administrative rate. In summary, the AED technical analysis called the contractor proposed daily rate of \$8,965 “outrageous” and stated that a 110-day extension valued at approximately \$600,000 would be “more than adequate to compensate the contractor for ALL delays on the project.” Further, the technical analysis noted that the schedule presented by the contractor was impossible to analyze as presented.

In contract modification P00010 to the phase I contract at NMH, dated July 25, 2006, and valued at \$1.0 million, AED compensated the contractor for delays caused by the Government. The \$1.0 million compensated the contractor for overhead costs, general and administrative costs, and profit for a 160-day delay. Given the sizeable discrepancy between the AED technical analysis and the contractor request for equitable adjustment, AED did not adequately document the negotiation and award of this modification or why it had agreed to pay more than 1.5 times what it declared “more than adequate.”

As of November 2008, the contractor submitted a claim to AED of an additional \$4.0 million to compensate for time delays because contract requirements were ambiguous. This new claim is currently under review by AED.

Oxygen Supply System

CSTC-A and AED did not properly define a contract requirement for an oxygen supply system at NMH. The NMH phase II contract, awarded on August 1, 2006, included option 0016 to replace the oxygen supply system, valued at \$940,137. The option was to demolish and replace the existing oxygen supply system in the three buildings. This option was exercised as part of the award of the contract. More than 1 year later, on November 27, 2007, AED removed the oxygen supply system requirement from the contract. However, AED was able to recover only \$769,471 of the original requirement, as \$170,666 had already been spent on the design of the oxygen supply system. According to a price negotiation memorandum, “It was discovered after award of contract that the scope of this Line Item would have to be significantly increased in order to bring the work up to code for the size of these buildings.” Specifically, it was

discovered that the hospital fire suppression system had to be upgraded to handle an oxygen supply system. The price negotiation memorandum stated that AED planned to procure the oxygen supply system under a separate contract.

According to the draft ANA program management plan, CSTC-A is responsible for the development of requirements. Specifically, the draft plan states, “CSTC-A is responsible for the identification, validation, budgeting and requirements definition for all facilities required for the fielding of the new ANA.” So even as AED exercised the contract option for the oxygen supply system, the responsibility for requirements development lay with CSTC-A. Further, the draft ANA program management plan stated:

While risks cannot be totally eliminated, they can be mitigated thru close coordination between CSTC-A, AED PgM [Program Management], MPRI mentors and ANA users early in the planning process. Best business practices will be employed including detailed planning Charrettes, scoping meetings, site visits and follow up coordination meetings to ensure all requirements are carefully considered and deliberately included in the scopes of work (SOW) prior to issuance of Requests for Proposals (RFP).

The Kabul NMH phase II contract file did not document that this planning coordination took place. AED exercised this contract option upon contract award in August 2006. More than a year later, in November 2007, it was “discovered” that the hospital fire suppression system would have to be upgraded to handle an oxygen supply system. The oxygen supply system requirement was not defined at the time the contract was awarded, and should not have been exercised.

We believe, however, AED chose to exercise this contract option because the contract was partially funded by Public Law 109-13, and the ASF Fund appropriation in the law was set to expire on September 30, 2006. Given that the contract was awarded on August 1, 2006, AED had about 60 days from the contract award to exercise the contract option. Had AED not exercised the option by September 30, 2006, the funding would have expired. By exercising the option, even when the requirement was not fully defined, AED was able to obligate the funds before they expired. The exercise of the option for requirements that were not fully defined was not appropriate, and resulted in AED inefficiently spending \$170,666 for design costs for an oxygen supply system that was never delivered.

Summary

AED is constructing more than \$2.4 billion worth of buildings for the ANA. We reviewed 25 contracts, valued at \$420.0 million, for real property construction awarded by AED in support of the ANA, and AED could account for construction on 23 of the 25 contracts. AED did not properly negotiate and award contract modifications made to two contracts related to the renovation and repair of the Kabul NMH. At the NMH, AED did not properly negotiate contract modifications for sewage risers or compensation for construction delays. In addition, AED improperly exercised a contract option for an oxygen supply system that was later removed from the contract. CSTC-A and AED must

implement controls to ensure funds are efficiently spent to fulfill actual requirements of the ASF.

Management Comments on the Finding and Our Response

AED Comments

Responding for AED, the Commander, AED, partially agreed with the finding that AED may have spent \$770,000 unnecessarily. He agreed that the NMH modifications may have resulted in funds being potentially awarded without adequate documentation. He did not agree that \$170,666 was inefficiently spent in support of the NMH oxygen supply system, as the design may be used in the preparation of the next phase of construction.

Regarding the sewage riser modification, the Commander stated that problems occurred because of an incomplete IGE that did not take into account additional work that was in the Request for Proposal. He stated that the contractor's cost proposal contained documentation supporting proposed costs, and the contracting officer deemed the support adequate and signed the modification. The Commander stated that it would be incorrect to assume that the negotiations were not carried out properly.

Regarding the modification for construction delays, the Commander stated that the problems appeared to have been caused by an IGE that understated the amount for extended overhead or standby costs. According to him, the contract files lacked details to fully resolve the differences among the IGE, \$600,000; the contractor's proposal, \$1.5 million; and the agreed-to modification amount of \$1.0 million. AED stated that this does not mean that the differences, on the part of the Government or contractor, do not have merit.

The Commander did not agree with the finding that AED improperly exercised a contract option that did not have well-defined requirements on one of the NMH contracts. He stated that AED properly awarded the option for the oxygen supply system and ensured that the design of the project was in conformance with CSTC-A's requirements scope of work. He stated that AED found e-mails between AED personnel and CSTC-A staff discussing the statement of work and concluded that CSTC-A and AED agreed to the statement of work prior to contract award. The Commander stated that the \$170,000 expended under the original award was not totally lost. The design became the property of the Government and was handed over to the end user at the close of the contract. According to the Commander, the design will likely be used in preparation of the next phase of construction, with the extent of the requirement more fully understood. He stated that there was no evidence to support the conclusion that AED chose to exercise the option for the oxygen supply system just to spend expiring funds. According to the Commander, the timing of the obligation does not, in and of itself, establish anything improper.

Our Response

AED did not properly negotiate and award the modification for sewage risers or the modification to compensate the contractor for construction delays.

Had CSTC-A and AED properly planned construction requirements at NMH, they would have known that the fire suppression system at the hospital needed to be upgraded to support the oxygen supply system before the contract was awarded. The contract option for the oxygen supply system called for the delivery of an oxygen supply system. Exercising this option did not obtain an oxygen supply system. The American taxpayer spent \$170,666 and received no tangible asset in return.

Recommendations, Management Comments, and Our Response

A.1. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District and the Commanding General, Combined Security Transition Command-Afghanistan:

- a. Strengthen controls for real property construction by documenting planning decisions made by all parties involved in developing construction requirements, as discussed in the draft Afghanistan National Army Program Management Plan.**

CSTC-A Comments

The Deputy Commanding General, CSTC-A, answered on behalf of the Commanding General, CSTC-A. He agreed with the recommendation. The Deputy Commanding General stated that CSTC-A signed the ANA program management plan and has institutionalized the documentation of planning decisions involved in developing construction requirements with AED.

Our Response

We consider CSTC-A's comments responsive.

AED Comments

The Commander, AED agreed with the recommendation. He noted that the ANA program management plan was signed by CSTC-A and AED officials. Implementation of the requirements in this plan will enhance program and project definition and development of requests for proposals.

Our Response

We consider AED's comments responsive.

- b. Conduct with the Afghanistan National Army a comprehensive review of the construction requirements at the National Military Hospital in Kabul. This review should focus on clearly defining the remaining construction requirements of the Afghanistan National Army.**

CSTC-A Comments

The Deputy Commanding General, CSTC-A, answered on behalf of the Commanding General, CSTC-A. He agreed with the recommendation. The Deputy Commanding General stated that this review was completed as part of the expansion plan for the growth of the ANA to 134,000 troops. The review resulted in additional requirements for a military health professionals institute, ANA medical training student housing, and electrical power infrastructure enhancements.

Our Response

We consider the CSTC-A comments responsive.

AED Comments

The Commander, AED agreed with the recommendation. He stated that the comprehensive review should take place between CSTC-A and the ANA because CSTC-A is responsible for the identification, validation, budgeting, and requirements definition for all facilities required for fielding the ANA.

Our Response

We consider the AED comments responsive. Regarding the construction requirements at NMH, we agree that CSTC-A and the ANA should be the primary parties in defining the remaining requirements, but AED must be involved in the requirements definition process.

A.2. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District:

- a. Account for variances between independent Government cost estimates and final prices, when applicable.**

AED Comments

The Commander, AED agreed with the recommendation. He stated that AED will emphasize the requirements in the FAR, the Engineer FAR Supplement, and AED's policies and procedures to ensure all procurement personnel obtain an initial IGE when applicable, and updates when appropriate, in accordance with regulations. Further, the Commander stated that AED will ensure that personnel document differences between the IGE and proposed amounts, accounting for significant variances in the contract files.

Our Response

We consider the AED comments responsive.

- b. Ensure all requirements on construction contracts are fully defined at the time of contract award.**

AED Comments

The AED Commander agreed, stating that AED will strictly adhere to the ANA program management plan guidance and coordinate fully with CSTC-A. He stated that CSTC-A is responsible for defining the requirements to AED, identifying all project requirements, functional imperatives, and performance criteria.

Our Response

We consider the AED comments responsive.

- c. Strengthen controls over the review of the adequacy of funds being placed on the contract.**

AED Comments

The AED Commander agreed. He stated that AED will strictly adhere to the ANA program management plan guidance and coordinate fully with CSTC-A. The Commander stated that CSTC-A is responsible for managing the funds necessary to execute the ANA program in concert with AED. He stated that CSTC-A will coordinate with its CJ-8 (Comptroller), AED, and USACE to establish the format, frequency, and financial reporting requirements for projects funded through Foreign Military Sales and the ASF Fund.

Our Response

We consider the AED comments responsive.

Recommendations in a prior report* to develop and implement standard operating procedures for the transfer of real property to the ANA were in the process of being implemented, and are not repeated in this report.

* DoD Inspector General Report No. D-2009-031, "Afghanistan Security Forces Fund Phase III-Air Force Real Property Accountability," December 29, 2008.

Finding B. Quality Control

AED construction projects in Afghanistan did not have adequate quality controls (QCs). Specifically, AED did not exercise oversight over QC for four contracts valued at \$52.6 million. The lack of QC oversight led to faulty construction, unsafe working conditions, and the construction contractor's failure to meet contract requirements on those four contracts. CSTC-A and AED must take immediate action to strengthen controls over real property construction by clearly defining the roles and responsibilities of all parties involved in contracting for construction of buildings to support the ANA.

To further strengthen QC, AED needs to:

- develop and implement procedures to verify that the construction contractor is capable of performing QC prior to contract award, and
- develop and implement standard operating procedures to validate contractual QC procedures have been accomplished.

Inspection Requirements

FAR Part 46, "Quality Assurance," defines contract quality requirements in terms of the technical requirements related to inspection, the contract clauses that ensure quality, and other QCs of the contractor required to assure that the product being contracted for conforms to the terms of the contract. Further, FAR Part 46 defines Government contract quality assurance (QA) as "the various functions, including inspection, performed by the Government to determine whether a contractor has fulfilled the contract obligations pertaining to quality and quantity."

FAR 46.102, "Policy," discusses the role of Government agencies in QA. Specifically, FAR 46.102 states that agencies shall ensure that:

- (a) Contracts include inspection and other quality requirements, including warranty clauses when appropriate, that are determined necessary to protect the Government's interest;
- (b) Supplies or services tendered by contractors meet contract requirements;
- (c) Government contract quality assurance is conducted before acceptance (except as otherwise provided in this part), by or under the direction of Government personnel;
- (d) No contract precludes the Government from performing inspection;
- (e) Nonconforming supplies or services are rejected, except as otherwise provided in 46.407;
- (f) Contracts for commercial items shall rely on a contractor's existing quality assurance system as a substitute for compliance with Government inspection and testing before tender for acceptance unless customary market practices for the commercial item being acquired permit in-process inspection (Section 8002 of Public Law 103-355). Any in-process inspection by the Government shall be conducted in a manner consistent with commercial practice; and
- (g) The quality assurance and acceptance services of other agencies are used when this will be effective, economical, or otherwise in the Government's interest.

In discussing the contractor's responsibilities for QA, FAR 46.105, "Contractor Responsibilities," states that the contractor is responsible for:

- (1) Controlling the quality of supplies or services;
- (2) Tendering to the Government for acceptance only those supplies or services that conform to contract requirements;
- (3) Ensuring that vendors or suppliers of raw materials, parts, components, subassemblies, etc., have an acceptable quality control system; and
- (4) Maintaining substantiating evidence, when required by the contract, that the supplies or services conform to contract quality requirements, and furnishing such information to the Government as required.

FAR 46.312, "Construction Contracts," instructs the contracting officer to insert contract clause 52.246, "Inspection of Construction," in solicitations and contracts. Contract clause 52.246 provides clear detail on the quality requirements for construction contracts.

The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

Quality Control Procedures

We reviewed controls over the inspection of real property construction, including contract QA and QC.

Quality Assurance

According to the draft program management plan for the ANA program, AED is responsible for QA for real property construction. AED's QA responsibilities include:

- inspecting work sites, material, and equipment to ensure compliance with the plan;
- documenting daily safety and occupational health inspections provided by the contractor in daily logs; and
- identifying and documenting safety and health issues and establishing actions, a timetable, and responsibility for corrective action on deficiencies.

The ANA program management plan is an authoritative document that clearly defines the roles and responsibilities of CSTC-A, AED, and the construction contractor. Yet, the program management plan is only in draft form, suggesting that CSTC-A and AED have yet to come to full agreement on their responsibilities in managing a multibillion-dollar reconstruction program to support the ANA. Given the importance of this program and its dollar value, CSTC-A and AED should finalize the ANA program management plan.

Quality Control

The contractor is responsible for establishing and maintaining a QC system, which consists of plans, procedures, and the organization necessary to produce an end product that complies with the contract requirements. QC requires a staff with appropriate skills to ensure safety and contract compliance. According to contract requirements, the QC staff should maintain a presence at the construction site at all times. The QC systems manager is responsible for overall management of QC, and should have proper education and experience to ensure compliance with the contract.

Quality Assurance and Quality Control Deficiencies

QA reports and correspondence between AED and the contractor documented multiple instances in which the contractor did not have proper QC at the construction site, leading to noncompliance with contract requirements. Specifically, we found examples of control weaknesses in performance of QA and QC on the Darulaman Commando Battalion Complex contract, the National Military Academy of Afghanistan (NMAA) gym contract, and the Kabul NMH contracts (Phases I & II). The lack of QC oversight led to faulty construction, unsafe working conditions, and the construction contractor's failure to meet contract requirements on those four contracts.

Darulaman Commando Battalion Complex

The construction contractor did not have an adequate QC system at the Darulaman Commando Battalion Complex, resulting in multiple QC deficiencies. AED awarded Pro-Sima a contract, valued at \$23.2 million, to design and construct a Commando Battalion Complex at Rish Kvoor near Darulaman. A sample of AED QA reports documented that AED was performing inspections of the construction site. The QA reports noted numerous safety violations and problems with design documentation by the contractor, and described Pro-Sima's inability to meet contract schedules. In addition to daily QA reports, AED also issued a series of letters to Pro-Sima, noting QC concerns. In a letter dated May 30, 2007, AED noted that Pro-Sima had missed six "critical" due dates for contractor submittals, including submission of the contractor's QC plan and an accident prevention plan. AED further noted that Pro-Sima's inability to meet contract schedules would lead to an interim unsatisfactory rating. On August 30, 2007, AED issued an interim unsatisfactory rating for Pro-Sima. AED noted that, "Pro-Sima appears to not have any idea what is required by this contract." Further, AED noted that Pro-Sima's QC plan was a good plan, but stated that the company was not following the plan. Specifically, AED stated:

There is typically no Pro-Sima QC manager or alternate managers on site daily. Pro-Sima has so far ignored the quality control requirements of this job both in design and production quality control. Pro-Sima much of the time has not even one Pro-Sima employee on site during work activities so that they can control the production, answer questions, perform quality control or enforce safety compliance. Pro-Sima's daily reports are always submitted late and we have to notify this contractor several times to get the reports submitted.

Regarding staffing, AED stated:

Pro-Sima apparently bid this project without any organization in place or any plan on how to accomplish the work on time or to the standards as specified in the RFP [Request for Proposal]. Pro-Sima to this late date in the project has not hired or staffed their organization with adequate qualified personnel to competently execute their contracted work with AED. Also, when the project work plans are finally written properly and accepted by the U.S. Army Corps of Engineers, Pro-Sima rarely follows their own plan (example: Safety and CQC [Contractor Quality Control] plans).

However, even given AED's efforts to bring its concerns to the contractor's attention, the contractor was still unable to maintain an effective QC system. In a letter dated May 28, 2008, AED again expressed concerns with Pro-Sima's QC and stated, "This week it was discovered that two buildings, B9 and B3, were formed wrong." AED noted that the project was already behind schedule, and stated, "These types of mistakes can not wait until the building is already formed and ready to pour before they are discovered. This type quality control is totally unacceptable."

On November 18, 2008, AED wrote the contractor and stated Pro-Sima's QC and work coordination were "unsatisfactory." Further, the letter detailed an incident on the prior day that illustrated AED's concerns.

On Nov 17 2008 Pro-Sima started a concrete pour after normal work hours for the east end sewer lift station. COE [Corp of Engineers] had not been notified of this and had not inspected the form work. The concrete pour resulted in the forms breaking loose and the loss of the concrete and valuable construction time. Your company's site supervision continues to disregard regulations regarding work task. Your company's management continues to ignore these problems due to not answering the recent serial letter that was sent about this type action, and continues to let this type of conduct take place on this project. There seems to be little or no site coordination between management and site supervision.

The contract for the Commando Battalion Complex at Rish Kvoor demonstrated that, even with adequate QA inspection, AED still needed to strengthen controls over the construction contractor's compliance with inspection requirements. Otherwise, the Government is at increased risk of receiving an end product that does not comply with the contract requirements. This construction contract provides a clear example of the extraordinary challenges facing CSTC-A and AED in building an infrastructure to support the ANA in a wartime environment.

National Military Academy of Afghanistan Gym

AED and the construction contractor did not have adequate QA or QC for the NMAA gym contract, resulting in construction that did not meet contract specifications. AED awarded contract W917PM-06-C-0022, valued at \$3.5 million, to Mustafa Sahak Construction Company (MSCC) on June 30, 2006, for various construction requirements at NMAA. The construction included building a gym, paving roads, and renovating a

billet facility. For this contract, we selected a sample of QA reports between July and August 2008. During this period, the majority of QA reports were blank, and thus provided limited evidence that AED was inspecting the construction site. Even in the QA reports that contained information on the progress of construction, the details were limited. For example, in a QA report dated August 10, 2008, the following comment appeared: “Splice angles are inadequate in steel roof trusses. Requested set up a meeting to resolve to [sic] the issue.” This QA daily report does not indicate which building the comment referred to, nor did the comment indicate whether, as a result of this issue, the contractor did not comply with the contract requirements.

During a previous year, AED sent a letter dated July 1, 2007, to MSCC outlining various QC deficiencies. The letter provided some evidence that AED was inspecting the site.

Your performance and quality control on the subject contract has been less than satisfactory. Your onsite quality control and project management staff have been unable to respond to and correct construction deficiencies when they are presented by the USACE Quality Assurance staff. Your personnel are not familiar with the design and specifications that your company has submitted for approval and continues [sic] to use unapproved materials.

AED further outlined five specific examples of QC deficiencies in MSCC’s work, including its use of unsatisfactory material and incorrectly installing electrical conduit. In conclusion, AED stated, “Overall, the quality of your work and your ability to perform in a timely manner is [sic] very poor.” AED sent a series of additional letters, citing MSCC for overestimating its construction progress, which resulted in overpayment to MSCC, and also threatening MSCC with an interim unsatisfactory rating. Although MSCC did dispute some of AED’s claims, AED issued an interim unsatisfactory rating for this contract.

The NMAA gym contract suggests that AED was not diligent in inspecting the construction contractor. Although AED sent a series of letters to the contractor detailing QC deficiencies, the letters proved unsuccessful, and AED had to issue an interim unsatisfactory rating. Further, the QA reports provided only limited evidence that AED was inspecting the site. This situation also illustrates AED’s difficulties in compelling the construction contractor to maintain proper QC. Ultimately, the QC deficiencies led to construction that did not meet the contract specifications.

National Military Hospital-Phases I & II

In addition to the various issues discussed in finding A, the construction at NMH, valued at \$25.9 million, suffered because of a weak QC system for both phases of construction. Although AED maintained sufficient QA, the construction contractors failed to maintain proper inspection of the construction, had weak safety controls, and produced incomplete contractor QC reports. These weak controls led to multiple safety violations and construction that did not meet the contract requirements.

Quality Assurance

The QA reports for both phases of the NMH construction were adequate for documenting inspection of construction. The QA reports provided details on the construction project, including updates on the progress of construction, safety violations, and other deficiencies with the construction. Although the AED QA system provided for proper inspection of construction at NMH, the QA reports detailed multiple deficiencies with the contractor QC system.

Safety Controls

The AED QA reports detailed multiple safety violations for both phases at NMH. For the phase I contract, we sampled QA reports for August through December 2005. AED QA reports noted 10 safety violations. Specifically, the reports listed instances in which the contractor did not have a safety officer at the site, and the AED QA was acting as the safety officer. In one instance, the safety conditions were so bad that the site had to be shut down. In an August 31, 2005, QA report, AED noted problems with electrical wiring and concerns about chemicals making workers sick.

We moved into Building # 2, where we found the Contractor was using chemicals to disinfect the building, but at the time had no idea what detergent they were using. The Government inspectors began feeling sick after coming into contact with this chemical and Zafer's personnel were working in this area with no respiratory protection. Zafer's project manager were [sic] ordered to immediately shut this building down to employees working. They told me that they had not put up any plastic protection as directed the day before. They are very repetitive in ignoring Government's direction on safety issues.

In another instance in September 2005, an employee received an electrical shock while cutting a power line.

For the phase II contract, the safety inspector was fired by the contractor because the safety inspector was pointing out safety violations to the site manager. When the safety inspector returned to the site, he was physically removed, and assault charges were filed against him. The safety violations noted in the AED QA reports provide evidence that the contractor did not maintain proper controls to ensure compliance with the contract, resulting in unsafe working conditions.

Quality Control Reports

For the NMH phase I contract, AED could not produce any QC reports to verify whether the contractor was documenting the progress of construction, safety issues, or deficiencies in construction. However, in reviewing AED QA reports, we found evidence that the QC reports were not reliable. A September 12, 2005, report noted that Zafer, the contractor, was not incorporating Government inspection comments in the QC reports, and called into question the accuracy of the QC reports.

Continue to inform QC that the daily reports need to be revised if they are not going to incorporate Government's inspection comments or safety infractions. Zafer continues to ignore this action and will not

cooperate with their daily reports because they claim it makes them look bad to their company, so the Government's QA report will be the most accurate document on file.

For the phase II contract, we found a discrepancy between what was reported by AED QA and the contractor QC report. As noted above, in a September 27, 2007, QA report, the contractor safety inspector was fired for pointing out safety violations to the contractor. However, the contractor QC reports make no mention of the firing of the safety inspector. This omission not only casts doubt on the reliability of the QC reports in providing information on the progress of construction, but also suggests that the contractor is not willing to report items that reflect poorly on its performance.

Construction Deficiencies

For the phase I contract, we found multiple examples of deficiencies in construction. We found examples in the AED QA reports, such as concrete not being properly cured, waterproofing not being applied properly to bathroom floors, and poor paint jobs. In one instance, AED disputed a claim made by the contractor that a primer was applied as part of painting a wall in a mechanical building at NMH. AED went as far as testing a section of the wall to determine whether the primer was applied. The phase II contract is ongoing, and we did not find any major construction deficiencies.

Summary

AED did not consistently maintain proper controls over inspection of construction. The lack of AED oversight led to faulty construction, unsafe working conditions, and construction that did not meet contract requirements.

The QC deficiencies in construction services will continue to have an adverse effect on both CSTC-A and AED's goal to provide support for the ANA. AED's failure to compel construction contractors to maintain QC systems directly undermines the mission of CSTC-A to build a self-sustaining security capability in Afghanistan.

Management Actions

Acting on the recommendation in the draft report, CSTC-A and AED finalized and signed the ANA Program Management Plan. In addition, the AED Commander noted in comments that AED has taken corrective actions to assist non-U.S. contractors in their performance of their responsibilities, including increased training, mentoring, and site support. In addition, the Commander noted that AED has established a QA Branch to improve QA/QC functions.

Management Comments on the Finding and Our Response

AED Comments

The Commander, AED partially agreed with the finding that projects did not have adequate QCs. He agreed that four contracts identified in the report "suffered troubles

with the QC program” but did not agree that AED did not exercise oversight of the QC program. The AED Commander stated that most of the AED contractors are foreign and have not been exposed to QA or the responsibilities of a QC system. The AED Commander also noted that AED’s QA efforts continuously documented instances in which the contractor did not have proper QC at the construction sites. Further, the AED Commander stated that the four projects mentioned in the finding have been completed or will be completed by July 2009 and handed over to the ANA.

The Commander agreed that the lack of QC oversight contributed to faulty construction and unsafe working conditions, but he did not agree that lack of QC oversight led to the construction contractor’s failure to meet contract requirements. The AED Commander stated that many of AED’s non-U.S. contractors had never heard of construction material laboratories, construction quality management, QA representatives, concrete fundamentals, electrician qualifications, safety programs, or QC systems. The AED Commander stated that AED’s QA records disclosed the many problems to ensure that proper corrections were made by the contractor. He stated that AED has taken steps to correct these problems, including increasing QA staffing, emphasizing quality management classes at Afghan trade schools, and disseminating technical guidance in Dari and Pashtu languages. The report is correct that contract requirements may not have been met at the point the QA and QC reports were reviewed by the auditor; however, subsequently, AED’s QA program required construction contractors to perform new construction, rework, repair, alter, or improve the work performed to ensure that the construction conformed to contract requirements.

Our Response

While QC is the responsibility of the construction contractor, the contractors failed to meet these requirements. These failures resulted in the contractor’s inability to meet contract schedules, as well as in unsafe working conditions and faulty construction. Effective QC is so important to the management of construction that it is not enough that the contract contains QC requirements; AED must verify that the contractor is capable of performing QC and has qualified staff before the contract is awarded.

Recommendations, Management Comments, and Our Response

B.1. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District and the Commanding General, Combined Security Transition Command-Afghanistan finalize and sign the Afghanistan National Army Program Management Plan.

CSTC-A Comments

The Deputy Commanding General, CSTC-A answered on behalf of the Commanding General, CSTC-A. The Deputy Commanding General agreed with the recommendation and noted that the ANA Program Management Plan has been signed.

Our Response

We consider CSTC-A's comments responsive.

AED Comments

The Commander, AED agreed with the recommendation and also stated that CSTC-A and AED have signed the ANA Program Management Plan.

Our Response

We consider the AED comments responsive.

B.2. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District conduct a review of all Afghanistan National Army real property construction contracts to determine whether the construction contractor is maintaining an effective quality control system. The Commander, Afghanistan Engineer District, should take immediate action to address any existing quality control deficiencies, including issuing stop orders and terminating contracts if necessary.

AED Comments

The Commander, AED agreed with the recommendation. He stated that the AED QA branch is responsible for training and for assessing whether the construction contractor is maintaining an effective QC system. Once the QA branch identifies contractors with QC problems, QA staff immediately begin corrective actions in conjunction with the contractor.

Our Response

We consider the AED comments responsive.

B.3. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District strengthen controls over inspection of construction by developing and implementing procedures to accomplish the following:

- a. Verify that the construction contractor is capable of performing the service it has contracted to do before the contract is awarded, including ensuring it has enough qualified quality control personnel.**

AED Comments

The Commander, AED agreed with the recommendation. He stated that all solicitations now contain a contractor QC specification that defines the necessary qualifications and responsibilities for QC staffing. The Commander also stated AED has strengthened controls over the Construction Contractor Appraisal Support System, a database AED uses to assess contractor performance. According to AED, these steps will reduce the chances of awarding new contracts to contractors that have performed poorly.

Our Response

We consider the AED comments responsive.

- b. Validate that contractual quality control procedures have been accomplished.**

AED Comments

The Commander, AED agreed with the recommendation. He stated that AED is deploying a 10-person QA team to maintain high-quality data in the system used to track projects, train Afghan QA representatives and new AED employees, perform substantial QA inspections, and identify deficiencies in contractor QC, as well as providing direction on necessary improvements.

Our Response

We consider the AED comments responsive.

Appendix A. Scope and Methodology

We conducted this performance audit in Afghanistan and the United States from December 2007 through March 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed real property construction contracts funded in part by the ASF Fund appropriation in Public Laws 109-13, 109-234, and 109-289. We reviewed DoD Instructions and the FAR. We reviewed CSTC-A Operations Orders and the CSTC-A Campaign Plan.

We reviewed contract documentation for 25 ANA real property construction projects to determine whether AED maintained sufficient documentation to account for real property construction in support of the ANA. We judgmentally selected the 25 contracts from a total universe of 84 contracts for review based on location, safety, and accessibility of the sites within Afghanistan. In total, we reviewed ANA real property construction valued at \$420.0 million.

We did not look at the complete contract files for the real property construction projects in our audit scope. We looked at documentation contained in the contract files that provided a record of contracting actions. We reviewed documentation such as contracts, contract modifications, price negotiation memoranda, and correspondence between AED and the construction contractor to determine whether AED maintained sufficient documentation to support contracting actions.

In Afghanistan, we visited five provinces—Kabul, Balkh, Kandahar, Herat, and Paktia—from February through June 2008. We visited 25 construction contract sites with U.S. Government and contractor officials to validate real property existence and accountability.

We interviewed U.S. Government and contractor officials and reviewed contract documentation from AED, including original contract awards, contract modifications, real property turnover records, and other reports. We extracted from the USACE Resident Management System (RMS; used to track projects) planning documentation, project progress reports, and QA reports, among other reports. We attended AED deployment augmentation training at the USACE Transatlantic Programs Center in Winchester, Virginia, to gain an understanding of policies, procedures, and responsibilities of AED employees deployed to Afghanistan.

Use of Computer-Processed Data

We used the USACE RMS to generate reports. We found the computer-processed data to be reliable for the 25 real property projects we looked at. Although we did not perform a formal reliability assessment of the computer-processed data, we did not find errors that would preclude use of the data to meet the audit objectives, or that would change the conclusions in this report.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) and the DoD Inspector General (IG) have issued six reports discussing accountability for goods and services provided to the Afghanistan Security Forces. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

GAO

GAO Report No. GAO-08-661, “Afghanistan Security: Further Congressional Action May Be Needed to Ensure Completion of a Detailed Plan to Develop and Sustain Capable Afghan National Security Forces,” June 2008

GAO Report No. GAO-05-575, “Afghanistan Security: Efforts to Establish Army and Police Have Made Progress, but Future Plans Need to Be Better Defined,” June 2005

DoD IG

DoD IG Report No. D-2009-050, “Distribution of Funds and the Validity of Obligations for the Management of the Afghanistan Security Forces Fund Phase II,” February 2009

DoD IG Report No. D-2009-031, “Afghanistan Security Forces Fund Phase III-Air Force Real Property Accountability,” December 2008

DoD IG Report No. D-2008-012, “Distribution of Funds and Validity of Obligations for the Management of the Afghanistan Security Forces Fund-Phase I,” November 2007

DoD IG Report No. D-2006-007, “Contracts Awarded to Assist the Global War on Terrorism by the U.S. Army Corps of Engineers,” October 2005

Appendix B. Other Matter of Interest – ANA Maintenance of Buildings

The ANA did not always maintain buildings after CSTC-A had transferred the buildings to the ANA. For example, during a site visit to Mazar-e-Sharif (MeS), we observed numerous maintenance problems in central toilets, showers, and latrines including the formation of mold, cracks in the walls, broken water faucets, broken door locks, and frozen pipes in a facility that had been turned over to the ANA. An AED field engineer stated it was difficult to get ANA soldiers to care for their own facilities.

AED awarded service contract W912ER-04-D-0003, task order 0015, to Contract International Inc. to maintain ANA facilities, including buildings in MeS. The contracted services are to preserve and maintain all facilities and infrastructure for their designated functional purpose. In addition to performing maintenance services, the contractor is also required to train the ANA on facilities maintenance.

After our site visit to MeS, we discussed maintenance issues with CSTC-A and AED to facilitate potential solutions. Regarding the mold, CSTC-A and AED came up with a short-term solution, using a bleach mixture to disinfect the ceilings and temporarily eliminate the mold. The CSTC-A long-term solution was to ensure adequate exhaust ventilation in each latrine by wiring existing exhaust fans, and to have the ANA take ownership of the space.

The figure below shows before and after pictures of mold formation at an ANA facility in MeS.



During DoD IG Visit (left) and After DoD IG Visit (right)

Appendix C. Management Comments on the Review of Internal Controls and Our Response

The Commander, AED did not agree that AED had material internal control weaknesses in the planning of construction requirements and inspection of construction.

AED Comments

The Commander, AED did not agree that material control weaknesses (as defined by DoD Instruction 5010.40, “Managers’ Internal Control Program Procedures,” January 4, 2006) existed in the planning of construction requirements and inspection of construction. The Commander stated that he did not believe the deficiencies warrant becoming reportable conditions. AED cited DoD Instruction 5010.40, stating that a material weakness involves a deficiency in management controls that warrants the attention of the next level of command (Headquarters USACE) because the next level must take action or because it must be aware of the problem.

The Commander stated that the findings do not support the deficiencies as being material because the report found only 3 contract modification exceptions out of 220 and 4 out of 25 contracts with intermittent QC deficiencies. He stated that the internal controls weaknesses are not systematic or to a degree that requires reporting in accordance with DoD Instruction 5010.40, and AED management judgment is not to report this weakness as material.

The Commander did agree that AED’s internal controls need continual improving in planning of construction requirements and inspection of construction. He stated that appropriate corrective actions were developed and implemented to strengthen efforts in identifying construction requirements and improving inspections. Specifically, he noted the finalization and implementation of the ANA Program Management Plan and the establishment of the QA Branch within AED. The Commander stated that these actions resulted in “significant improvements in the reduction of risk and execution of both our planning of construction and, in particular, the QC performance area. In addition, he cited nine efforts taken by the QA Branch that have improved QA/QC. Among the efforts, the Commander noted that the number of AED-certified construction material laboratories increased from 20 to 40, and AED contracts now require that the contractor QC manager take a construction quality management class offered by USACE. For the list of all nine AED efforts, see the AED management comments at the end of the report.

Our Response

Regarding the material internal control weaknesses related to planning of construction requirements and inspection of construction, we disagree with AED. The findings highlight material deficiencies in AED’s internal controls. DoD Instruction 5010.40 defines a material weakness in internal controls as a reportable condition significant enough to report to the next higher level.

We made a judgment that AED's controls over the planning of construction requirements had a material weakness that necessitated reporting to a higher level. While we commend AED and CSTC-A for finalizing and signing the ANA Program Management Plan, this action took place more than a year after the audit began and only in response to the audit recommendation. In the absence of a signed plan, CSTC-A and AED operated without any formal agreements outlining the roles and responsibilities of each party. This resulted in the failure to plan construction requirements, as discussed in finding A, a weakness we deem material.

AED had a material control weakness over inspection of construction. While QC is the responsibility of the contractor, the contractors failed to meet these requirements. These failures resulted in the contractor's inability to meet contract schedules, as well as in unsafe working conditions and faulty construction. Effective QC is so important to the management of construction that it is not enough that the contract contains QC requirements; AED must verify that the contractor is capable of performing QC. AED's lack of controls over inspection of construction requirements represented a material weakness that necessitates reporting to a higher level. We understand the difficulties AED faces working in wartime conditions, and we commend the steps it has taken so far to improve oversight of QC.

Appendix D. Contracts Reviewed

Location	Contract No.	Description	Net Contract Value*	Province
Kabul Military Training Center	W917PM-06-C-0018	Classrooms/Ranges	10,579,310	Kabul
ANA NMH	W917PM-05-C-0005	ANA NMH Phase I	18,910,143	Kabul
	W917PM-06-C-0032	ANA NMH Phase II	6,978,833	Kabul
Bala Hissar	W917PM-06-C-0027	G2 Intelligence Bldg.	12,476,048	Kabul
NMAA	W917PM-06-C-0022	NMAA Gym/Motor Pool	3,526,020	Kabul
	W917PM-07-C-0061	Two-Story Office Bldg.	465,903	Kabul
NMAA & Darulaman	W917PM-07-D-0019, TO 0004	Warehouses & Bathrooms	1,914,950	Kabul
Camp Commando at Darulaman	W917PM-07-C-0034	Commando Battalion Complex	23,163,238	Kabul
	W912ER-07-C-0012	Commando Garrison Facilities	3,416,815	Kabul
	W917PM-04-D-0003, TO 0004	Khairabad ASP**	4,303,923	Kabul
	W917PM-07-C-0030	Commando Fence	2,409,816	Kabul
	W917PM-06-C-0039	Training Command Headquarters Bldg.	2,583,224	Kabul
Kandahar	W917PM-07-C-0006	ANA Hospital Addition	2,338,786	Kandahar
	W912ER-04-D-0003, TO 0006	ANA Regional Brigade	67,189,485	Kandahar
Herat	W912ER-04-D-0003, TO 0004	ANA Regional Brigade	70,006,271	Herat
Mazar-e Sharif	W917PM-05-C-0009	ANA Regional Hospital	3,654,049	Balkh
	W917PM-06-C-0019	ANA Headquarters Bldg.	1,015,368	Balkh
	W917PM-07-C-0069	ANA Training Bldg.	246,038	Balkh
	W917PM-08-C-0006	Range Classrooms-Training Shelters	374,812	Balkh
	W912ER-04-D-0008, TO 0001	ANA Brigade Facilities	72,757,082	Balkh
Gardez	W912ER-04-D-0008, TO 0002	ANA Brigade Facilities	66,420,840	Paktia
	W917PM-05-C-0007	ANA Regional Hospital	3,487,851	Paktia
	W917PM-08-C-0011	MEDCOM Living Facilities	348,600	Paktia
Various	W917PM-06-C-0034	Log Depot-Class V Ammo Supply	23,240,788	Various
Various	W917PM-07-C-0032	Heating and Cooling Upgrades	18,228,131	Various
	Total		\$420,036,324	

*Net contract value is the contract award amount, adjusted for contract modifications as of November 2008.

** Ammunition Supply Point.

Appendix E. Sites Visited

In finding A, we found that AED could account for construction on 23 of the 25 contracts. We also visited construction sites to verify that the real property physically existed. We collected evidence by taking photographs and videos during construction site walk-throughs. We verified the existence of the 25 real property construction projects awarded by AED at the direction of the CSTC-A in support of the ANA. Below are some of the sites we visited.

Kabul Military Training Center

AED awarded Zafer Construction Company contract W917PM-06-C-0018, valued at \$10.6 million, to design and construct two 800-man classroom buildings, associated utilities, an administration building, and a latrine facility; renovate the auditorium foyer; and implement various range upgrades.

On February 26, 2008, we visited the site and observed the construction at the Kabul Military Training Center at Kabul. We observed that the construction generally met the scope of work. We verified the existence of multiple buildings at the Kabul Military Training Center. We found that a classroom was being used as temporary barracks. In addition, we noticed that the latrine facility was partially in disrepair, with door handles missing from multiple stalls. Figure E-1 shows a classroom and a latrine facility at the Kabul Military Training Center.



Figure E-1. Classroom (left) and Latrine Facility (right)

Kabul ANA National Military Hospital

As discussed in findings, AED awarded two contracts for a two-phased renovation and repair of the ANA NMH at Kabul. The first phase was awarded on October 9, 2004, to Zafer Construction Company and was valued at \$18.9 million. The second phase was awarded on August 1, 2006, to Venco-Imtiaz Construction Company, and was valued at \$7.0 million. On March 11, 2008, we visited the ANA NMH in Kabul. We observed the

construction and verified the existence of the NMH. We observed the ongoing construction at NMH, including that of the elevators and surgeon building (Figure E-2).



Figure E-2. Elevators (left) and Surgeon Building (right)

National Military Academy of Afghanistan

On February 27, 2008, we visited the NMAA to verify the existence of three construction projects.

Gym

AED awarded MSCC contract W917PM-06-C-0022, valued at \$3.5 million, to upgrade and construct various requirements, including a gym, motor pool offices, and a shower/ablution facility.

Office Building

AED awarded Feka Insaat Sanayi Ve Ticaret Limited STI contract W917PM-07-C-0061, valued at \$465,903, to design and construct a two-story office building at NMAA.

Warehouses and Darulaman Bathrooms

AED awarded FCEC UIProjects JV contract W917PM-07-D-0019, task order 0004, valued at \$1.9 million, to construct warehouses at NMAA and bathrooms and a parking lot at Camp Julian, near Darulaman. We visited the bathrooms and parking lot on our March 1, 2008, site visit to Darulaman.

We observed that the ongoing construction generally met the scope of work. We verified the existence of multiple buildings at the NMAA in Kabul, including the NMAA gym and latrine (Figure E-3).



Figure E-3. NMAA Gym (left) and Latrine (right)

Darulaman

On March 1, 2008, we visited Darulaman to verify the existence of five construction projects.

Rish Kvoir Commando Battalion Complex

AED awarded Pro-Sima contract W917PM-07-C-0034, valued at \$23.2 million, to design and construct a Commando Battalion Complex at Rish Kvoir near Darulaman. The requirements included barracks, a dining facility, a motor pool, a network of roads and bridges, and a medical clinic.

Commando Counter Explosive School/Commando Garrison

AED awarded OBD Construction Company contract W912ER-07-C-0012, valued at \$3.4 million, to construct an ANA Counter Explosive school. Later, CSTC-A decided to relocate the Counter Explosive school, but the remaining requirements were still constructed as part of the contract. These requirements included water, sewer, and power distribution systems and student living quarters.

Camp Morehead Commando Fence

AED awarded Kabul Europe Construction Road & Materials Company contract W917PM-07-C-0030, valued at \$2.4 million, to design and construct force protection measures at Camp Morehead near Darulaman. The force protection included a fence, observation towers, and entry control points.

Khairabad Ammunition Supply Point

AED awarded Zafer Construction Company contract W917PM-04-D-0003, task order 0004, valued at \$4.3 million, to upgrade security measures, replace facilities, and upgrade utility infrastructure for the ammunition supply point at Khairabad.

Training Command Headquarters

AED awarded Yuksel Construction Company contract W917PM-06-C-0039, valued at \$2.6 million, to design and construct an ANA Training Command headquarters building at Camp Julian in Darulaman. The contract included a requirement for the headquarters building, with tea room and storage room. Also included was a parking lot. Figure E-4 shows the Training Command headquarters building and Commando Battalion Complex.



Figure E-4. Training Command Headquarters (left) and Commando Battalion Complex (right)

G2 Intelligence Headquarters Security Brigade

On June 6, 2008, we visited the G2 Intelligence Headquarters Command and Security Brigade at Bala Hissar, Kabul, and observed the construction.

On July 15, 2006, AED awarded Shaw Environmental & Infrastructure Inc. contract W917PM-06-C-0027, valued at \$23.0 million, to design and construct ANA G2 Intelligence Headquarters Command and Security Brigade to support 1,500 persons in Bala Hissar. This included a requirement for a prime power plant, a perimeter wall, guard towers, bachelor officer quarters, and renovation of a swimming pool. In May 2007, the contractor uncovered an archaeological discovery of historical significance, and a suspension of work was issued to the contractor on May 18, 2007. In an AED memorandum dated November 12, 2007, AED counsel determined that the proposed change to the original contract was out of scope and considered a major change. Therefore, on March 8, 2008, AED issued a modification to partially terminate the contract and reduce the value of the contract from \$23.0 million to \$12.5 million at the convenience of the Government. The contractor billed for supervision, material, and equipment costs. While many of the original contract requirements were never completed, during our site visit we observed the renovation of the pool and saw the unused material purchased for the contract.

Kandahar

On March 2, 2008, we visited the Regional Brigade and the hospital addition at Kandahar.

Kandahar Regional Brigade

AED awarded Contrack International Inc. contract W912ER-04-D-0003, task order 0006, valued at \$67.2 million, to design and construct the ANA regional brigade in Kandahar. The regional brigade included a prime power plant, an infantry battalion complex, training building, centralized maintenance facility, barracks, and a dining facility. Figure E-5 shows facilities at the Regional Brigade in Kandahar.



Figure E-5. Barracks (left) and Dining Facility (right)

Kandahar Hospital Addition

AED awarded Krima/Kainatt (JV) Construction Company contract W917PM-07-C-0006, valued at \$2.3 million, to design and construct a 50-bed, single-story hospital addition to the regional hospital at the ANA brigade in Kandahar. The hospital addition included a patient care facility and related administrative, nursing, visiting, and support facilities. Figure E-6 shows the hospital addition at Kandahar under construction.



Figure E-6. Kandahar Hospital Addition Under Construction

Herat Regional Brigade Facilities

On May 25, 2008, we visited the Regional Brigade at Herat. AED awarded Contrack International Inc. contract W912ER-04-D-0003, task order 0004, valued at \$70 million, to design and construct ANA Regional Brigade in Herat. This contract included requirements for a prime power plant, bachelor officer quarters, helipad, training building, communication system, and a dining facility.

Construction Contracts at Mazar-e-Sharif

On May 2, 2008, we visited the following real property construction sites at MeS to verify construction of:

- the regional hospital,
- the Corps headquarters building,
- the Tactical Operation Center,
- the range classrooms, and
- Regional Brigade facilities.

MeS Regional Hospital

AED awarded Mensel JV Company Inc. contract W917PM-05-C-0009, valued at \$3.7 million, to design and construct a 2,450-square-meter, 50-bed regional hospital in MeS.

MeS Corps Headquarters

AED awarded Venco-Imtiaz Construction Company contract W917PM-06-C-0019, valued at \$1 million, to design and construct a 776-square-meter, two-story Corps headquarters building in MeS.

MeS Tactical Operation Center

AED awarded Toll Brothers Construction Company contract W917PM-07-C-0069, valued at \$246,038, to renovate the Tactical Operation Center in MeS. The renovation included a building upgrade, conference room, office space, and an electrical distribution system. Figure E-7 shows the Tactical Operation Center conference room and office in MeS.



Figure E-7. Tactical Operation Center Conference Room (left) and Office (right)

MeS Range Classrooms

AED awarded Art Construction contract W917PM-08-C-0006, valued at \$374,812, to design and construct a new range, classrooms, training shelters, and training buildings in MeS.

MeS Regional Brigade Facilities

AED awarded Perini Corporation contract W912ER-04-D-0008, task order 0001, valued at \$72.8 million, to design and construct ANA Regional Brigade in MeS. This contract included requirements to construct a prime power plant, water treatment plant, central toilet/shower facility, a centralized maintenance area, helipad, and infantry battalion complex. During our site visit, we found facilities maintenance problems, such as the formation of mold and frozen pipes. The mold at MeS is discussed in Appendix B. Figure E-8 shows fuel storage tanks and frozen pipes in showers at the Regional Brigade in MeS.



Figure E-8. Fuel Storage Tanks (left) and Frozen Pipes (right) at MeS

Construction Contracts at Gardez

On April 20, 2008, we visited the following real property construction sites at Gardez to physically verify the existence of:

- the regional brigade,
- the regional hospital, and
- the medical living facilities.

Gardez Regional Brigade Facilities

AED awarded Perini Corporation contract W912ER-04-D-0008, task order 0002, valued at \$66.4 million, to design and construct the ANA Regional Brigade in Gardez. This contract included requirements to construct a prime power plant, a water treatment plant, a central toilet/shower facility, an infantry battalion complex, a maintenance training facility, training ranges, and a communications system.

Gardez Regional Hospital

AED awarded Mensel JV Company Inc. contract W917PM-05-C-0007, valued at \$3.5 million, to design and construct a 2,450-square-meter, 50-bed regional hospital in Gardez.

Gardez Medical Living Facilities

AED awarded Development Organization for Revival of Razia Sadat Afghanistan contract W917PM-08-C-0011, valued at \$348,600. This contract was to design and construct a medical living facility and renovate an existing living quarters building and dining facility to house 120 personnel in Gardez. Figure E-9 shows the medical living facility in Gardez.



Figure E-9. Medical Living Facility

Combined Security Transition Command-Afghanistan Comments



DEPARTMENT OF DEFENSE
COMBINED SECURITY TRANSITION COMMAND – AFGHANISTAN
KABUL, AFGHANISTAN
APO AE 09356

CSTC-A-DCG

8 March 2009

MEMORANDUM FOR United States Department of Defense, Office of the Deputy
Inspector General for Auditing, Joint and Overseas Operations, 400 Army Navy Drive,
Arlington, Virginia 22202-4704

SUBJECT: CSTC-A Response to the Department of Defense Inspector General

1. Reference: Report on Afghanistan Security Forces Fund Phase III: U.S. Army Corps
of Engineers Real Property Accountability (Project No. D2007-D000LQ-0161.004) dated
19 February 2009.

2. The purpose of this memorandum is to respond to the recommendation listed in the
referenced report. The Command's enclosed response is reflective of significant efforts
to address the shortcomings noted in the report.

3. My point of contact is [REDACTED] or NIPR email
[REDACTED]

Encl

A handwritten signature in black ink, appearing to read "Anthony R. Ierardi", is positioned above the printed name.

ANTHONY R. IERARDI
Brigadier General, U.S. Army
Deputy Commanding General

**Afghanistan Security Forces Fund Phase III
U.S. Army Corps of Engineers Real Property Accountability**

CSTC- A Comments to DoD Inspector General
Discussion Draft Report

DoD IG Finding A. Kabul National Military Hospital Construction: AED and CSTC-A accounted for construction services on 23 of the 25 contracts reviewed. However, AED did not properly negotiate and award contract modifications made to two contracts related to the construction of the Kabul National Military Hospital (NMH). In addition, AED also improperly exercised a contract option that did not have well-defined requirements on one of the NMH contracts. As a result, AED may have inefficiently spent ASF funds on construction to support the ANA. Specifically, AED may have spent more than \$770,000 unnecessarily on the two Kabul NMH contracts.

DoD IG Recommendations. A.1.a. Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District and the Commander, CSTC-A strengthen controls for real property construction by documenting planning decisions made by all parties involved in developing construction requirements, as discussed in the draft Afghanistan National Army Program Management Plan.

CSTC-A Response to DoD IG Recommendations. A.1.a: CSTC-A Concur. CSTC-A has signed the final Afghanistan National Army Program Management Plan, and has institutionalized documenting planning decisions involved in developing construction requirements in concert with AED.

DoD IG Recommendations. A.1.b. Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District and the Commander, Conduct with the Afghanistan National Army a comprehensive review of the construction requirements at the National Military Hospital in Kabul. This review should focus on clearly defining the remaining construction requirements of the Afghanistan National Army.

CSTC-A Response to DoD IG Recommendations. A.1.b. CSTC-A Concur. This review was completed as part of the expansion plan for the growth of the ANA to 134K troops. A short summary of the additional requirements for the ANA National Military Hospital found during the comprehensive review is as follows: "As a result of the review, additional requirements for a Military Health Professionals Institute, ANA Medical Training Student Housing, and Electrical Power Infrastructure enhancements were captured and documented."

DoD IG Finding B. Quality Control AED construction projects in Afghanistan did not have adequate quality controls (QC). Specifically, AED did not exercise oversight over QC for 4 of 25 contracts reviewed. The lack of QC oversight led to faulty construction, unsafe working conditions, and the construction contractor's failure to meet contract requirements on those four contracts. AED and CSTC-A must take immediate action to strengthen controls over real property construction by clearly defining the roles and

DoD IG Discussion Draft Report No. D2007-D000LQ-0161.004 Dated 19 February 09

responsibilities of all parties involved in contracting for construction of buildings to support the ANA.

DoD IG Recommendations. B.1. Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District and the Commander, CSTC-A finalize and sign the Afghanistan National Army Program Management Plan.

CSTC-A Response to DoD IG Recommendations: B.1. CSTC-A Concur – The Afghanistan National Army Program Management Plan has been signed.

U.S. Army Corps of Engineers, Afghanistan Engineer District Comments



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
AFGHANISTAN ENGINEER DISTRICT
APO AE 09356

CEAED-IR

March 4, 2009

MEMORANDUM FOR Inspector General, Department of the Defense, ATTN: Program Director, Southwest Asia Operations, 400 Army Navy Drive, Arlington, VA 22202-4704

SUBJECT: Comments to Report - Afghanistan Security Forces Fund Phase III – U.S. Army Corps of Engineers Real Property Accountability (Project No. D2007-D000LQ-0161.004)

1. This memorandum provides the U.S. Army Corps of Engineers, Afghanistan Engineer District, response to the subject draft audit report.
2. Based on our review of the draft audit report, we generally agree with its recommendations. We have attached our written comments as an enclosure.
3. If you have any questions, please contact [REDACTED]
[REDACTED]

THOMAS E. O'DONOVAN
COL, EN
Commanding

Encl
as

Afghanistan Engineer District Comments to Audit Findings and Recommendations

General Comments

The Afghanistan Engineer District (AED) has reviewed the draft DoD IG report that determined if we had properly accounted for real property construction purchased with money from the Afghanistan Security Forces Fund (ASFF), to support the Afghan National Army (ANA). Your review of 25 contracts in support of your audit objectives resulted, in our opinion, generally approving results for AED.

We acknowledge having challenges with the identified two awarded contract modifications, a contract option and on some projects less than adequate contractor quality controls (QC). However, we believe the 3 exceptions identified among the 220 contract modifications issued on these 25 contracts are significantly lower than one might expect in a contingency environment. This is especially true when one considers our personnel shortages, and an ever changing work force. We would also like to point out that the potentially unnecessarily spent \$770,000 is only 0.2 percent of the approximately \$420.0 million reviewed in the audit. QC, as stated in the report, provides a clear example of the extraordinary challenges facing AED in building an infrastructure to support the ANA in a wartime environment. In this regards the report has provided examples of QC deficiencies found on 4 of the 25 contracts reviewed. It also discloses positive efforts by AED to correct and improve QC performance by contractors to ensure that the work performed under the contract conforms to contract requirements. Since your field work and drafting of the report, AED has developed and implemented additional corrective actions to assist our predominately non-US contractors in the performance of their responsibilities. Our actions included increased training, mentoring and on site support and are detailed later in our comments.

Page 21

As important as the above findings are, we view even more seriously your statement in the Review of Internal Controls paragraph that there exists a material internal control weakness in AED's planning of construction requirements and inspection of real property. We do not believe the deficiencies are of a level to warrant becoming reportable conditions and actions have already been taken by AED to resolve the findings. A material weakness according to DoD Instruction 5010.40, involves a deficiency in management controls (i.e., they are not in place; they are in place but are not being used; or they are in place and used but are not adequate); and it warrants the attention of the next level of command (HQUSACE), because that next level must take action or because it must be aware of the problem. Based on the audit results; in our opinion, the DoD IG findings do not support the deficiencies being determined to be material. In discussing this issue with the DoD IG representatives we were told, "When the DoDIG has a finding, it is considered a material weakness". We find this position to be inflexible and unsupportable. More importantly, the determination does not give recognition to the corrective actions and changes implemented by AED since the auditors visited Afghanistan or the performance period of the contracts reviewed. Appropriate corrective actions have been developed and implemented by AED to strengthen efforts in identifying construction requirements from our customers, and improving the quality of contractor inspections. The finalization and implementation of the ANA Program Management Plan between AED and CSTC-A, and the establishment of a Quality Assurance Branch were two of the actions taken.

Page 21

Encl
Page 1 of 9

According to DoD Instruction 5010.40, the determination of materiality and as to whether or not a weakness is deemed material is management's judgment.

AED Comments to Audit Findings

The draft report findings, by finding section, and associated AED comments are detailed below:

Finding A. Kabul National Military Hospital Construction

1. AED did not properly negotiate and award contract modifications made to two contracts related to the construction of the Kabul National Military Hospital (NMH).

Response: AED partially concurs with the finding. A detailed review of the DoD IG report finding and our contract files disclosed that we are not fully able to document the circumstances surrounding the negotiations of the sewage riser modification or the equitable adjustment modification due to construction delays; however, we believe the awards themselves were made properly.

Our review of the first modification disclosed that the sewage riser problems generally occurred because of an incomplete independent government estimate (IGE) scope of work that did not consider additional work which would have been required to implement the changes described in the Request for Proposal (RFP). This resulted in an understated IGE. The Price Negotiation Memorandum (PNM) lacked detail which specifically mapped out the differences between the IGE and contractor's proposal. However, the contractor's proposal itself contained documentation supporting proposed costs in response to the RFP. This was deemed adequate by the contracting officer who signed the modification. It would be incorrect to assume that the negotiations themselves were not carried out properly. Based on the results of our review of the circumstances surrounding this modification, we partially concur with the audit finding.

Our review of the second modification disclosed that the delay problems appeared to have been caused by an IGE that understated the amount for extended overhead or standby costs. We found the contract files lacked details for us to fully resolve the differences between the IGE, \$600,000; the contractor's proposal \$1,542,002.48; and the agreed to modification amount of \$1,023,000. However, this does not mean that the differences, on the part of the government or contractor, do not have merit.

The negotiations between the contractor and contracting officer resulted in a bilateral agreement. Based on the results of our review of this modification we concur with the audit finding.

2. AED improperly exercised a contract option that did not have well-defined requirements on one of the NMH contracts.

Response: AED does not concur with the finding. AED properly awarded the option and ensured that the design of the project, including CLIN 0016, was in conformance with CSTC-A's requirements scope of work.

Encl
Page 2 of 9

The option identified in the finding was awarded as part of the basic contract award effective August 1, 2006, and included costs to: Replace Oxygen Supply System. Our review of the contract files disclosed that the replacement of the oxygen supply system was included in Section 01010, Statement of Work, as Option 2, as of May 21, 2006. We also found e-mails between AED personnel and CSTC-A staff discussing the SOW. We have no personnel currently assigned at AED that were involved with award of this project; nevertheless, we conclude that discussions occurred between CSTC-A and AED concerning the replacement of the oxygen system and that CSTC-A and AED agreed to the SOW prior to contract award.

Once problems were identified in late 2007, CSTC-A and AED agreed to the prudent action of de-scoping the project and saved nearly \$770,000 of the original requirement. The \$170 thousand expended from the original award, prior to cancellation, produced a design of the oxygen system and is not totally lost. The design becomes the property of the Government, and was handed over to the end user at the close of the contract. This design will in all likelihood be used in the preparation of the next phase of construction, now that the extent of this requirement is more fully understood.

Finally, the audit report indicates that the auditors believed AED chose to exercise this contract option because the contract was partially funded by PL 109-13, Afghanistan Security Forces Funds and they were set to expire on September 30, 2006. There is no evidence whatsoever to support this conclusion. The timing of the obligation does not, in and of itself, establish anything improper. AED does not concern itself with the obligation of customer funds or whether the funds are set to expire. The requirement of an oxygen system in the Afghan National Military Hospital represented a bona fide need on August 1, 2006.

As a result of our review of the circumstances surrounding the defining of the contract requirement for an oxygen supply system, AED believes it exercised its responsibilities properly using well-defined requirements. We do not concur with the finding.

3. AED may have spent approximately \$770,000 unnecessarily on the two Kabul NMH contracts.

Response: AED partially concurs with the finding. The approximately \$770,000 identified as unnecessarily spent by AED represents differences between the IGE and negotiated amounts on the above two NMH modifications, about \$200,000 and \$400,000, and the \$170,666 expended on the NMH option.

We concur that the NMH modifications may have resulted in funds being potentially awarded without adequate documentation.

We do not concur that \$170,666 of expended funds were inefficiently spent in support of the NMH oxygen supply system option. The \$170,666 expended from the original award, prior to cancellation, produced a design of the oxygen system that will not be totally lost. The design may be used in the preparation of the next phase of construction.

Encl
Page 3 of 9

Recommendations

1. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District and the Commander, Combined Security Transition Command-Afghanistan:

a. Strengthen controls for real property construction by documenting planning decisions made by all parties involved in developing construction requirements, as discussed in the draft Afghanistan National Army Program Management Plan.

Response: AED concurs with the recommendation and has taken appropriate action to strengthen controls for real property construction. The ANA Program Management Plan has been agreed to and signed by CSTC-A and AED officials. Implementation of the requirements in this plan will enhance program and project definition (scoping), acquisition and development of requests for proposals.

b. Conduct with the Afghanistan National Army a comprehensive review of the construction requirements at the National Military Hospital in Kabul. This review should focus on clearly defining the remaining construction requirements of the Afghanistan National Army.

Response: AED concurs with the recommendation. However, the comprehensive review should be conducted between the ANA and CSTC-A. CSTC-A is responsible for the identification, validation, budgeting, and requirements definition for all facilities required for the fielding of the ANA.

2. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District:

a. Account for variances between independent Government cost estimates and final prices, when applicable.

Response: AED concurs with the recommendation. AED will emphasize the requirements contained in the Federal Acquisition Regulation (FAR), Engineer Federal Acquisition Regulation (EFARS) and AED's policies and procedures to ensure all procurement personnel, to include Contracting, Contracting Administration Branch and Cost Engineering obtain an initial IGE when applicable, and updates when appropriate, in accordance with the regulations. AED will ensure procurement personnel document differences between the IGE and proposed amounts, accounting for significant variances to include documenting the contracting files.

b. Ensure all requirements on construction contracts are fully defined at the time of contract award.

Response: AED concurs with the recommendation. AED will strictly adhere to the ANA Program Management Plan guidance and coordinate fully with CSTC-A. CSTC-A is responsible for defining the requirements to AED that completely identifies all project requirements, functional imperatives and performance criteria

Encl
Page 4 of 9

c. Strengthen controls over the review of the adequacy of funds being placed on the contract.

Response: AED concurs with the recommendation. AED will follow the guidance contained in the ANA Program Management Plan and coordinate appropriately with CSTC-A. CSTC-A is responsible for managing the funds necessary to execute the ANA program in concert with AED. CSTC-A Construction Program Manager is responsible for timely positioning of funds required to initiate new, or to continue ongoing projects. The CSTC-A will coordinate with their CJ-8, AED and USACE HQ to establish the format, frequency and financial reporting requirements for FMS and ASFF-funded projects.

Finding B. Quality Control

1. AED construction projects in Afghanistan did not have adequate quality controls (QC).

Response: We partially concur with the finding. We agree the identified 4 contracts, of the 25 reviewed, suffered troubles with the QC program; however, we do not agree that AED did not exercise oversight over the QC program. The contracts were awarded between October 2004 and April 2007. Most of AED's contractors are non-US and had never been exposed to quality assurance (QA) or the inherent responsibilities of establishing and maintaining a QC system. As a result, QC issues occurred more frequently. AED's QA efforts continuously documented instances in which the contractor did not have proper QC at the construction sites. Further, the report states that although AED maintained sufficient QA, the construction contractors failed to maintain proper inspection of the construction, including weak safety controls and incomplete contractor QC reports.

As of February 28, 2009, the construction projects identified in this finding, Darulaman Commando Battalion, National Military Academy of Afghanistan Gym, and Kabul National Military Hospital, Phase I and II, have been turned over to the Afghan National Army or are on amended schedules to be turned over in the near future. The National Military Hospital, Phase I was turned over to the ANA on September 6, 2006; the National Military Hospital, Phase II and the National Military Academy of Afghanistan Gym, are scheduled for completion in March 2009; and the Darulaman Commando Battalion is scheduled for completion in July 2009.

2. The lack of QC oversight led to faulty construction, unsafe working conditions, and the construction contractor's failure to meet contract requirements on four contracts.

Response: We partially concur with the finding. We agree that the lack of QC oversight contributed to faulty construction and unsafe working conditions. AED does not agree that diminished QC oversight led to the construction contractor's failure to meet contract requirements (final contract quality and delivery requirements) on the four contracts. As discussed in the audit report, AED noted numerous safety violations, problems with the design documentation, inability of the contractors to meet contract schedules, construction that did not meet contract specifications, and electrical wiring problems among others. Many of AED's non-US contractors had never heard of construction material laboratories, construction quality

Encl
Page 5 of 9

management, quality assurance representatives, concrete fundamentals, electrician qualifications, safety programs or RMS and QCS. Therefore, they had little knowledge and experience with their QC requirements. As a result, AED's QA records disclose many problems in the above areas and a need for greater follow-up by AED QA to ensure proper corrections were made by the contractor.

To correct these problems, AED increased staffing in the QA area, along with the hiring of LNQARs and the implementation of RMS and QCS. In addition, emphasis began on AED-certified construction material laboratories, construction quality management classes at Afghan trade schools, additional LNQARs, and the dissemination of technical guidance in Dari and Pashtu languages. The result has been significant improvement in the QC program on these individual contracts.

AED does not agree with the report conclusions that the lack of QC oversight led to the construction contractor's failure to meet contract requirements. The report is correct that contract requirements may not have been met at the point the QA and QC reports were reviewed by the auditor; however, subsequently, AED's QA program required construction contractors to perform new construction, rework, repair, alter, or improve the work performed to ensure that the construction conformed to contract requirements.

Recommendations

B.1. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District and the Commander, Combined Security Transition Command-Afghanistan finalize and sign the Afghanistan National Army Program Management Plan.

Response: AED concurs with the recommendation and has taken appropriate action. The ANA Program Management Plan has been agreed to and signed by CSTC-A and AED officials. Implementation of the requirements in this plan will enhance and strengthen controls for QA and QC.

B.2. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District conduct a review of all Afghanistan National Army real property construction contracts, to determine whether the construction contractor is maintaining an effective quality control system. The Commander, Afghanistan Engineer District, should take immediate action to address any existing quality control deficiencies, including issuing stop orders and terminating contracts if necessary.

Response: AED concurs with the recommendation. AED's QA Branch is responsible for training and assessing whether the construction contractor is maintaining an effective contractor quality control (CQC) system. Every AED solicitation now includes Section 01451, CQC. This specification section defines the necessary qualifications and responsibilities for QC in the contract. Once the QA Branch identifies contractors with QC issues they immediately begin corrective actions in conjunction with the contractor. Contractors that do not correct and improve their QC in a timely manner

will be referred for action to include issuing stop orders and terminating contracts if necessary.

B.3. We recommend that the Commander, U.S. Army Corps of Engineers, Afghanistan Engineer District strengthen controls over inspection of construction by developing and implementing procedures to accomplish the following:

- a. Verify that the construction contractor is capable of performing the service it has contracted to do before the contract is awarded, including ensuring it has enough qualified quality control personnel.

Response: AED concurs with the recommendation. As discussed above, every AED solicitation now includes Section 01451, CQC. This specification section defines the necessary qualifications and responsibilities for QC staffing. AED has strengthened efforts in populating and managing the Construction Contractor Appraisal Support System (CCASS) that assesses a contractor's performance and provides a record, both positive and negative, on a given contract. Through use of CCASS, AED will reduce the chances of awarding new contracts to poor-performing contractors. Also, the bid evaluation team will know when a contractor has successfully executed quality control on previous projects.

- b. Validate that contractual quality control procedures have been accomplished.

Response: AED concurs with the recommendation. A plan for deploying Quality Assurance teams has been developed and is being implemented. At full staff, the QA Branch team will consist of 10 people, including 7 engineers (2 civil, 1 structural, 1 mechanical, 1 electrical, 1 office, and 1 supervisory engineer). Their purpose is to maintain high-quality data in RMS, train Afghan QARs and new AED employees, perform critical/substantial QA inspections, and identify deficiencies in contractor QC, as well as providing direction toward necessary improvements.

Review of Internal Controls

Audit Finding: We determined that material internal control weaknesses as defined by DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," January 4, 2006, existed in the planning of construction requirements and AED inspection of real property.

Response: AED does not concur with the finding. We do not believe the deficiencies are of a level to warrant becoming reportable conditions. A material weakness according to DoD Instruction 5010.40, involves a deficiency in management controls (i.e., they are not in place; they are in place but are not being used; or they are in place and used but are not adequate); and it warrants the attention of the next level of command (HQUSACE), because the next level must take action or because it must be aware of the problem. Based on the audit results, in our opinion, the findings do not support the deficiency as being material. When only 3 contract modification exceptions of 220, 0.2 percent of the dollars examined, and 4 of 25 contracts were found to have intermittent QC deficiencies we cannot agree that AED's internal control

weakness are systemic or to a degree that requires reporting in accordance with DoD Instruction 5010.40. Therefore, management's judgment is to not report this weakness as material.

However, we agree that AED's internal controls need continual improving in the planning of construction requirements and inspection of real property. These areas were previously identified by AED through management assessments and staff meetings, prior to your audit report, as requiring attention. Appropriate corrective actions were developed and implemented to strengthen efforts in identifying construction requirements and especially improving the quality of contractor inspections. The finalization and implementation of the ANA Program Management Plan between AED and CSTC-A, and the establishment of a Quality Assurance Branch were two of the actions taken. These actions have resulted in significant improvement in the reduction of risk and execution of both our planning of construction and in particular the QC performance area. The QA Branch leads several efforts that contribute to improved QA/QC in the district, as described below:

- 1) The number of AED-certified construction material laboratories increased from 20 to 40. Certification involves inspection of equipment, facilities, knowledge of laboratory personnel, and reporting procedures for test results. This certification program gives AED the leverage to ask for improvements to laboratory testing. If errors are reported by AED field personnel, or if errors are noticed on construction submittals from contractors, the QA Branch immediately mentors the associated laboratory so that improvements are effected quickly.
- 2) AED contracts require that the contractor QC manager take a Construction Quality Management (CQM) class, as offered by the USACE. CQM is a class that teaches contractors how to successfully execute QC in contracts with the USACE. To-date, the AED has mentored two trade schools so that they can teach CQM in Dari and Pashtu, thus facilitating the learning process for contractors. Also, since December 2007, the AED has also taught three CQM classes in English, serving about 100 people from contractor firms.
- 3) The local national QAR (LNQAR) program currently includes about 230 personnel. In 2009, the new contract for this effort will allow for over 300 LNQARs. The LNQAR program has worked effectively for improving AED presence on construction sites, with the greatest improvements accomplished at remote construction sites.
- 4) AED hired a contractor security team, Global Security, to further improve AED jobsite presence. The Global personnel will be deployed to 5 different field offices, with teams that include hardened vehicles, shooters, medics, and engineers. The engineers will at times serve as quality assurance representatives (QAR) for AED projects. Prior to deploying to the field offices, all the Global engineers received both CQM training and on-the-job QAR training from AED personnel in Kabul.
- 5) The QA and Engineering Branches have proactively disseminated technical guidance to AED field offices; improved technical knowledge leads to improved QA. The technical guidance has assumed several forms: PowerPoint slideshow lessons, DVD's with technical references (e.g. ASTM, ACI, UBC, etc.), and technical training DVD's on topics such as concrete fundamentals and the basics of road construction.

Encl
Page 8 of 9

6) The QA and Contract Administration Branches have proactively taught contractors and AED personnel the QCS and RMS software systems, respectively. This effort promotes better communication between parties for the purpose of improved QA/QC. Contributing to this effort, five representatives of Michael Baker, Jr. Engineering will reside in field offices with the primary purpose to improve the quality and completeness of construction records in the RMS database.

7) AED recently revised Section 01010 (Scope of Work) in their contract documents to include strict qualifications for electricians and supervisory electricians. As a result, contractors must not only adhere to referenced building and electrical codes, their electricians and supervisory electricians must now meet education and experience requirements as well.

8) AED started implementing QA testing during the fall of 2008, using Simplified Acquisition Purchasing. So far, these contracts have been used for testing concrete reinforcing steel to determine if the steel meets Grade 60 requirements.

9) AED recently hired a person to lead efforts in populating and managing CCASS, which is a worldwide database for contractor evaluations. Through the use of CCASS, we will reduce the chances of awarding new contracts to poor-performing contractors. Also, the bid evaluation team will know when a contractor has successfully executed quality control on previous projects.

In accordance with DoD Instruction 5010.40, the determination of materiality and as to whether or not a weakness is deemed material is management's judgment.

Encl
Page 9 of 9



Inspector General Department *of* Defense